

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
Andrew J. Maloney III, <i>Co-Liaison Counsel</i> KREINDLER & KREINDLER LLP Robert T. Haefele, <i>Co-Liaison Counsel</i> MOTLEY RICE LLC	J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

VIA EMAIL

April 7, 2020

Christopher Curran, Esquire
 Nicole Erb, Esquire
 Matthew Leddicotte, Esquire
 White & Case, LLP
 701 Thirteenth Street, N.W.
 Washington, DC 20005-3807

Re: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Chris, Nicole, and Matt:

The Plaintiffs' Executive Committees ("PECs") write to set forth a proposal for enabling the Republic of Sudan ("Sudan") to address the defaults entered against it in the *Ashton*, *Burnett*, and *Federal Insurance* cases, and for achieving consolidated proceedings now that Sudan has belatedly appeared in certain of the cases in the MDL.

Procedural Status of Claims Against Sudan

The *Ashton* Plaintiffs' Complaint against Sudan was filed on March 6, 2003, and Sudan was thereafter served, via diplomatic channels, on April 29, 2003. On December 22, 2011 the Clerk of Court for the United States District Court for the Southern District of New York entered a Certificate of Default against Sudan in the *Ashton* action.

The *Burnett* Plaintiffs' Complaint against Sudan was filed on August 15, 2002; the case was transferred to the MDL in the Southern District of New York on December 10, 2003; and Sudan was thereafter served, via diplomatic channels, on December 9, 2004. The Clerk of Court issued a Certificate of Default against Sudan in *Burnett* on March 15, 2012.

The *Federal Insurance* Plaintiffs effected service of their First Amended Complaint on Sudan, also via diplomatic channels, on November 30, 2004. The Clerk of Court issued a Certificate of Default against Sudan in the *Federal Insurance* action on September 9, 2005.

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Counsel for the *Continental Insurance* Plaintiffs does not have full access to his file due to the current health crisis, but understands that the *Continental Insurance* Complaint was served via diplomatic channels in 2005.

The *O'Neill* Complaint against Sudan (Case No. 1:18-cv-12114) was served, via diplomatic means, on December 8, 2019. An earlier filed *O'Neill* Complaint also asserting claims against Sudan (Case No. 1:04-cv-01922), was sent to Sudanese authorities via registered mail by the Clerk of Court for the Southern District of New York on November 10, 2004, and further transmitted to the Department of State for service on Sudan in 2005.

Plaintiffs' Proposal

Sudan's failure to appear for more than fifteen years after being served in the *Ashton*, *Burnett*, and *Federal Insurance* actions has resulted in severe prejudice to those Plaintiffs. Nonetheless, Plaintiffs are willing to consent to grant Sudan relief from the defaults previously entered against it in the MDL cases, provided that Sudan consents to the filing of a Consolidated Amended Complaint on behalf of Plaintiffs in those actions, and Plaintiffs in the *Continental Insurance* and *O'Neill* cases. Plaintiffs would be prepared to file their Consolidated Amended Complaint within 5 days of the entry of an order granting Sudan relief from the defaults in *Ashton*, *Burnett*, and *Federal Insurance*. Sudan would then answer or move to dismiss the Consolidated Amended Complaint, and if the latter, Plaintiffs would file a single consolidated opposition brief.

We believe this is the most equitable approach for allowing Sudan to belatedly appear to defend the claims against it on the merits, more than fifteen years after it was originally served in the underlying cases, and to achieve the goals of coordination underlying the creation of MDL 1570 and embodied in the case management orders issued in the case and the course of proceedings to date.

We look forward to discussing this proposal with you, and any additional elements or proposals you think warranted and appropriate.

Sincerely,

COZEN O'CONNOR

/s/ Sean P. Carter

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*On behalf of the MDL 1570 Plaintiffs' Exec.
Committees*

KREINDLER & KREINDLER

/s/ Andrew J. Maloney

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*On behalf of the MDL 1570 Plaintiffs' Exec.
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/s/ Robert T. Haefele

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*On behalf of the MDL 1570 Plaintiffs' Exec.
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